



13 January 2015

Chair

Commerce Select Committee

Parliament Buildings

Wellington

Dear Sir

**Standards and Accreditation Bill 2014**

Please find attached the submission of Water New Zealand to the above Bill.

We wish to be heard in support of the submission.

Sincerely

John Pfahlert

Chief Executive

Submission to the Commerce Select Committee  
on the  
Standards and Accreditation Bill

January 2015

## INTRODUCTION

1. A not for profit incorporated society, Water New Zealand promotes and enables the sustainable management and development of the water environment. With 1500 members Water New Zealand's membership is large and diverse, including Territorial Local Authorities, Council Controlled Organisations, water and wastes services providers, the major consultancies involved in providing engineering, planning and research services to the industry, Crown and other research institutes involved in the water and wastes environment, academia, members of the legal fraternity and training providers.
2. We remain concerned at the general direction being taken in the management of Standards in New Zealand. However we accept that the decisions have now been taken over the future of Standards. This submission therefore outlines some concerns Water New Zealand has as to the operation of the Bill in its current form, and recommendations on remedying these concerns.

## EXECUTIVE SUMMARY

- We remain concerned that the Government decisions reflected in the Bill does not guarantee adequate public funding for Standards development going forward – a key issue which has beset Standards development for over 10 years
- The public good nature of standards is recognised by the continued Government involvement in their development and review, but it appears that Standards development will remain reliant on funding from those with vested interests, or in New Zealand having to adopt Standards from overseas – which may not always reflect the local environment
- It is important to retain appropriate industry representation on Standards Committees. This is not guaranteed by the legislation and we request that the Bill be amended to make sure that the system retains the ability for representative bodies to nominate people onto relevant committees
- The price of Standards documentation reduces the uptake by practitioners. We consider that adequate public funding should be made available to ensure free distribution of key standards to practitioners

## INTRODUCTION

3. Industry groups who engage regularly with Standards New Zealand have previously responded to proposals to change the Standards system – by submitting in relation to the discussion document *Proposals to Enhance the Delivery of Standards by New Zealand's National Standards Body* in April 2013 and by corresponding directly with officials.
4. Industry did not generally support the proposed move away from the existing independent Standards Council. This was largely due to concerns that independence, transparency and accountability would be more difficult to ensure if standards development functions were moved from a truly independent body to the Ministry of Business, Innovation and Employment.
5. Given that Cabinet has decided to proceed with moving standards development functions into MBIE, this submission focuses on ensuring the new arrangements

deliver industry-relevant, internationally aligned Standards within a structure that provides independence from the regulator, transparency and accountability.

6. We remain concerned however that unless a sustainable funding model is adopted that reflects the public good role of standards in a modern society that New Zealand will be increasingly reliant on industry produced standards or standards developed overseas.

## **SUBMISSION**

### **Purpose and Objectives of the Bill (clause 3)**

7. We support the purpose of the Bill, as stated in the Explanatory Note, as being to “ensure the New Zealand Standards and conformance system is viable and well-functioning, and meets the needs of business, regulators, and consumers into the foreseeable future”.
8. We also support the objectives set out on page 2 of the Explanatory Note relating to:
  - The maintenance of confidence and credibility in the standards development and approval process
  - Ensuring the standards and conformance system continues is responsive to industry, consumer and regulators’ demands and that it meets international expectations
  - Better alignment of standards with Government priorities
  - Ensuring standards development is cost-effective and financially sustainable.
9. We believe it is critical that the standards development and approval system is effective, efficient, equitable, transparent and financially sustainable.

### **The New Zealand Standards Executive (clauses 6-10)**

10. We note the intention to establish the New Zealand Standards Executive as an independent statutory officer within the MBIE. We support the establishment of this role and believe it vital that the officer is truly independent, as required under clause 7(2)(a).
11. Without this independence the standards development process is susceptible to regulator-capture and such a perception would result in the loss of confidence by industry. We recommend the New Zealand Standards Executive be subject to regular and independent audit to confirm it has acted effectively and independently. The results of these audits should be reported appropriately to ensure any issues detected are disclosed and addressed. Furthermore, to ensure industry and public confidence in the standards development systems, audit reports must be made public.
12. We support the proposed functions of the New Zealand Standards Executive set out in clause 7(1). In relation to establishing and maintaining the work programme for the development, maintenance and review of standards (clause 7(1)(e)), we believe industry consultation is vital to ensure the prioritised programme of work is appropriate. This will ensure the continued buy-in and contribution by the key industry players. We recommend industry consultation be a mandatory requirement under the Bill.
13. We foresee the functions set out in clause 7(1) requiring the input of more than one person and note clause 7(3) of the Bill enables the delegation of the New Zealand Standards Executive’s functions. We support this but note that any delegates, while also being Ministry employees, must act independently while undertaking delegated

functions. It is essential that the Government makes adequate provision for financial and human resourcing within MBIE to allow the functions of the Executive to be delivered. That has not been the case at Standards NZ for many years.

14. We note the intention for Ministers to be notified prior to the review of cited standards (clause 10). We support this proposal. It is critical that legislation and New Zealand Standards are consistent and well aligned.

#### **The New Zealand Standards Approval Board (clauses 11-14)**

15. We generally support the creation of an independent Approval Board, as proposed in clause 11. We support the proposed functions of the Board, as set out in clause 12. We support the requirement for the Board to provide written reasons for declining standards development committee members, standards or modification of standards. This will help ensure consistency in the decisions made by the Board.
16. We note the Board is to have 5-7 members appointed by the Minister. It will be important to ensure the Board is equitable, with representatives of the domains of interest of key stakeholders, including regulators, industry and consumers. We urge the Ministry and Minister to ensure the Board is equitable and not vulnerable to government/regulator capture.
17. We support the considerations for the Board as set out in clause 13. In particular, we support clauses 13(1) which will be important to ensure standards development committees comprise the “right” people – those with the necessary skills and expertise. Clause 13(1)(a) will be important to ensure standards development committees are not captured by those with special interests or their own personal/professional agendas.

#### **STANDARDS DEVELOPMENT COMMITTEES (CLAUSES 15-22)**

18. We support the continued use of committees to assist in the drafting of new standards and the review of existing standards. The Explanatory Note says such committees “could” include industry and technical experts, amongst others. We believe the involvement of industry and technical experts is vital and recommend the Bill be amended to require a call for nominations from stakeholder organisations that are, in general, well placed to identify experts with appropriate skills and expertise to be on a committee.
19. Representatives on standards development committees are largely volunteers who dedicate significant time and resource to support the standards development process. The success of the standards development process will depend on this continued high level of volunteer contribution. Therefore the perceptions of independence and full stakeholder representation on standards development committees will be critical to ensuring a continued high level of volunteer support.

#### **FEES FOR NEW ZEALAND STANDARDS AND COST RECOVERY (CLAUSES 23-25)**

20. We are heartened to see the Bill establishes a funding model for standards. However, we are concerned that the model seems focussed on the development of standards and does not set out how the time-consuming and expensive process of reviewing and updating standards will be funded. We recommend the Bill be amended to provide more clarity on this matter.
21. In relation to clause 23(1) we urge the New Zealand Standards Executive to make cited standards available to practitioners free of charge. We believe construction standards, for example, should be available free of charge to engineers and others practising in the construction sector, with the cost covered by the regulator.

22. In relation to clause 24, we believe that the New Zealand Standards Executive will have to be very careful if it is to enter into commercial arrangements with others. As noted previously, we believe it is very important the standards development process is not influenced or perceived to have been hijacked by those with their own agendas.

23. We support the principles of cost recovery, as set out in clause 25.

**NEW ZEALAND STANDARDS AND OTHER ACTS, LEGISLATIVE INSTRUMENTS AND BYLAWS (CLAUSES 26-28)**

24. The Bill enables bylaws to be made by referring to all or part of a standard. Bylaws are deemed not complete unless a copy of the New Zealand Standard (or part of it) referred to in the bylaw is included. We assume therefore that any New Zealand Standard cited in a bylaw will be available free of charge.

25. We note the Bill only refers to New Zealand Standards cited in bylaws and legislative instruments. We question the status of joint and overseas standards which New Zealand laws referred to and would appreciate clarification of their status.

26. Clause 27 of the Bill allows that New Zealand Standards cited in bylaws and legislative instruments may be modified, we assume by the person or body making the law. We have concerns that regulators may modify New Zealand Standards without the rigour of the standards development and review processes being applied. We recommend that any proposal to modify a New Zealand Standard through a bylaw or legislative instrument be first endorsed by the Committee which developed the standard, then approved by the New Zealand Standards Approval Board.

**Conclusion**

27. Water New Zealand wishes to be heard in support of this submission.

John Pfahlert

Chief Executive